

ATTACHMENT A
Statement of Facts

The United States and the Defendant, Kevin Miller, stipulate and agree that if this case proceeded to trial, the United States would prove the facts set forth below beyond a reasonable doubt. They further stipulate and agree that these are not all of the facts that the United States would prove if this case proceeded to trial.

Washington STATE 10 MSK bur

On December 2, 2016, Individual A was arrested in ~~Washington, D.C.~~, and charged with child pornography offenses. During a preliminary forensic examination of Individual A's electronic devices and media, law enforcement agents discovered three images on a USB drive that geo-located to Maryland. Two of the images geo-located to the residence of Defendant **KEVIN MILLER ("MILLER")** in Rockville, Maryland. The two images depict Victim 1 nude. In one of the images, IMG_2250JPG, which is the subject of Counts One and Two of the Indictment, Victim 1 is fully nude and her legs are bent exposing her genital area in the image. Victim 1 had just turned ten years old when the picture with her exposed genital area was taken on April 9, 2016.

MILLER took or caused to be taken the photographs of Victim 1 described above with **MILLER's** iPhone 5S. **MILLER's** iPhone 5S was not manufactured in Maryland and therefore traveled in interstate or foreign commerce prior to its use to produce image IMG_2250JPG.

On December 19, 2016, **MILLER** learned that law enforcement agents were investigating the images of Victim 1 described above. On December 20, 2016, **MILLER** replaced his iPhone 5S with a new iPhone.

On December 22, 2016, Victim 1 was interviewed by a trained child forensic interviewer. During the interview, Victim 1 disclosed that the two nude images of her described above were taken in the basement of **MILLER's** residence.

On the evening of December 22, 2016, Homeland Security Investigations (HSI) agents executed a search warrant at **MILLER's** residence in Rockville, Maryland and seized electronic devices, including **MILLER's** HP Elitebook bearing searing number CNU34B83Z and **MILLER's** Dell Latitude 360 laptop bearing serial number 5NJ1ES5B. During a subsequent forensic analysis of **MILLER's** laptops, an HSI forensic analyst discovered approximately 36 images of child pornography and child erotica that were still viewable. The forensic examiner also found remnants of additional files with names indicative of child pornography on both laptops, as well as remnants of a bit torrent peer-to-peer file sharing program on the HP laptop. Some of the images and videos that were still accessible on the laptop were captured in Windows Volume Shadow Copy. Windows Volume Shadow Copy is a technology included in Microsoft Windows that allows taking manual or automatic backup copies or snapshots of computer files or volumes, even when they are in use. The program that creates shadow copies of accessed files when Windows runs automatic scheduled backups. The forensic analyst also found wiping software called Privazer on the HP laptop that had last been run on December 22, 2016.

The following are examples of images captured by Windows Shadow Copy on **MILLER's** laptop that were still viewable by the forensic analyst:

Z2jhjjaCft8.jpg – depicts a partially nude prepubescent minor female sitting with her genitals exposed in the image. A Volume Shadow Copy of this image was made on December 16, 2016, which means it was still on the computer at that time in the following file path: users/kmiller/downloads/cpack3_little_joy/webcams/sets/[foreign language with characters]/pics.

Pat_anat_io_ua-4995.jpg – depicts a nude minor female lying on her back on what appears to be a bed with her right leg pulled up and spread to expose her genitals in the image. The minor's left hand is lying on her left thigh near her genital area. A Volume Shadow Copy of this image was made on December 19, 2016, which means it was still on the computer at that time in the following file path: users/kmiller/desktop/KM/iPhone photos 2/House stuff/New folder.

On February 24, 2017, Individual A was interviewed by law enforcement. During that interview, Individual A disclosed that Individual A and **MILLER** met online on Tribe.net. Individual A and **MILLER** also chatted with each other via an online chat application called ChatStep. Individual A knew **MILLER** by the pseudonym "Steve." Individual A stated that **MILLER** sent the two nude images of Victim 1 described above, as well as a third image of Victim 1 and Victim 2 clothed at a Starbucks, to Individual A via ChatStep.

As part of a separate investigation, a Worcester County (Maryland) sheriff downloaded multiple images and videos of child pornography that **MILLER** made available for sharing through a bit torrent peer-to-peer file sharing program on at least seventeen separate occasions between October and December 2016. Overall, the Worcester County sheriff downloaded at least 67 videos and 31 images of children engaged in sexually explicit conduct that **MILLER** made available for sharing through a bit torrent peer-to-peer file sharing program. For example, the Worcester County sheriff downloaded the following video file from Miller's IP address on November 26, 2016 at 6:18:06 PM:

Pedo-Pthc-Jenny 9yo Daughter-Zoo 5Yo Girl Dog And Man 2007 -Se(1).avi – a two minute and six second video that is part of a series related to a known identified victim that depicts a nude prepubescent minor female lying on a bed. Her arms and legs are bound with yellow rope and her genitals are exposed in the video. A tan colored dog is standing on the bed over the minor and is seen licking the minor's genitals. Also in the video, the minor is performing oral sex upon an adult male. Only the genitals of the adult are visible. Later in the video the minor is wearing a multi-colored stocking hat and the adult is digitally masturbating the minor female while the dog licks the minor's genitals.

The images and videos described above depict real children engaged in sexually explicit conduct. **MILLER** downloaded and distributed images and videos of child pornography using the Internet, and therefore such images and videos traveled in interstate and foreign commerce.

* * *

I have read this Statement of Facts, and have carefully reviewed it with my attorney. I understand it, and I voluntarily agree to it. I do not wish to change any part of it. I acknowledge that it is true and correct.

11/15/17
Date

Kevin Miller
Kevin Miller

I am Kevin Miller's attorney. I have carefully reviewed every part of this Statement of Facts with him. To my knowledge, his decision to sign it is an informed and voluntary one.

11/14/17
Date

Michael S. Rothman
Michael S. Rothman, Esq.